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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,594	09/19/2005	Jurgen Nicsar	785-012220-US (PAR)	6255
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PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			EXAMINER DEUBLE, MARK A	
			ART UNIT 3651	PAPER NUMBER
			MAIL DATE 09/25/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/533,594

Applicant(s)

NIESAR, JURGEN

Examiner

Mark A. Deuble

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/2/2005</u>  | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 10, 13, and 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 10 and 13, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

In regard to claim 13, it should be noted that a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 13 recites the broad recitation "less than 180°", and the claim also recites "preferably less

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than 130°” which is the narrower statement of the range/limitation, and “preferably less than 90°”, which an even narrower statement of the range/limitation.

Claims 17-18 recites the limitations “the gear wheel,” “the chain,” and “the axis of rotation.” There is insufficient antecedent basis for these limitations in the claim. It appears that the claims should depend from claim 15 rather than claim 12.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Christmann et al. (U.S. Patent No. 5,702,044).

Christmann shows a chain conveyor that could be used for film webs that includes a chain KG with a tensioning element mounted thereon. The tensioning element includes a U-shaped bearing bracket 1 with first and second surfaces on the top and bottom of part 12a and a clamping means. The clamping means is formed by a clamping piece 22 that interacts with the first surface, a foot 4, and a middle piece 2 with a diameter smaller than the foot's that connects the clamping piece and the foot piece together. The clamping means may be viewed as consisting of two parts joined by a frictional or material connection either by viewing the clamping piece and middle piece as being one member and the foot as the other piece or by viewing the foot and the middle member as one piece and the clamping member as the other

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piece. It is recognized that the parts may not be formed as single integral members in the fashion shown in Figures 1-3 or the present application, however there is no requirement in the claims that each of the two parts be formed in that fashion and therefore each "part" may be viewed as being formed of multiple pieces. Furthermore, even if the claims included such a recitation is not likely to result in patentability because of the obviousness of making parts integral and separable (see MPEP 2144). The middle piece and the foot piece are mounted displaceably in the bearing bracket so that a spring interacting with the bottom second surface of the bearing bracket and with the foot biases the clamping member against the top first surface of the bearing bracket. Thus Christmann shows all the structure required by claims 1-7 and 10-11.

5. Claims 1-6 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Vetter (U.S. Patent No. 4,397,411).

Vetter shows a chain conveyor that could be used for film webs that includes a chain 4 with a tensioning element mounted thereon. The tensioning element includes a bearing bracket 6 with first and second surfaces on the top and bottom of the distal arm of the bearing bracket and a clamping means. The clamping means is formed by a clamping piece 10 that has an annular bulge 22 that interacts with an annular recess 23 in the first surface, a foot 12/13, and a middle piece 9 with a diameter smaller than the foot's that connects the clamping piece and the foot piece together. The clamping means may be viewed as consisting of two parts joined by a frictional or material connection either by viewing the clamping piece and middle piece as being one member and the foot as the other piece or by viewing the foot and the middle member as one piece and the clamping member as the other piece. It is recognized that the parts may not be formed as single integral members in the fashion shown in Figures 1-3 of the present application,

however there is no requirement in the claims that each of the two parts be formed in that fashion and therefore each "part" may be viewed as being formed of multiple pieces. Furthermore, even if the claims included such a recitation is not likely to result in patentability because of the obviousness of making parts integral and separable (see MPEP 2144). The middle piece and the foot piece are mounted displaceably in the bearing bracket so that a spring interacting with the bottom second surface of the bearing bracket and with the foot biases the clamping member against the top first surface of the bearing bracket. Thus Vetter shows all the structure required by claims 1-6 and 8-11.

6. Claims 1-7 and 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Natterer et al. (U.S. Patent No. 4,826,065).

Natterer shows a chain conveyor that could be used for film webs that includes a chain 8 with a tensioning element mounted thereon. The tensioning element includes a bearing bracket 13 with first and second surfaces on the top and bottom of part 131 and a clamping means. The clamping means is formed by a clamping piece 55 that interacts with the first surface, a foot 57, and a middle piece 152 with a diameter smaller than the foot's that connects the clamping piece and the foot piece together (see Fig. 2). The clamping means may be viewed as consisting of two parts joined by a frictional or material connection either by viewing the clamping piece and middle piece as being one part and the foot as the other part or by viewing the foot and the middle member as one part and the clamping member as the other part. It is recognized that the parts may not be formed as single integral members in the fashion shown in Figures 1-3 of the present application, however there is no requirement in the claims that each of the two parts be formed in that fashion and therefore each "part" may be viewed as being formed of multiple

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pieces. Furthermore, even if the claims included such a recitation is not likely to result in patentability because of the obviousness of making parts integral and separable (see MPEP 2144). The middle piece and the foot piece are mounted displaceably in the bearing bracket so that a spring interacting with the bottom second surface of the bearing bracket and with the foot biases the clamping member against the top first surface of the bearing bracket. Thus Natterer shows all the structure required by claims 1-6, 10-11.

In regard to claims 15-18, it should be noted that Natterer also shows a means for opening and closing the tensioning element that is formed by a circular disk 30 rotatably mounted about an axis of rotation 32 offset from the axis of rotation 31 of a gear wheel 10 that drives the chain. Even though the disk is mounted on the same horizontal shaft as the gear wheel, its axis of rotation is inclined relative to the vertical. Thus Natterer shows all the structure required by claims 15-18.

7. Claims 1-6 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by German document number 572755.

The German document shows a chain conveyor that could be used for film webs that includes a chain with a tensioning element mounted thereon. The tensioning element includes a bearing bracket k/e with first and second surfaces on the top and bottom thereof and a clamping means. The clamping means is formed by a clamping piece c that interacts with the first surface, a foot f, and a middle piece b with a diameter smaller than the foot's that connects the clamping piece and the foot piece together. The clamping means consists of two parts joined by a frictional or material connection with the clamping means and the middle piece forming one part and the foot forming the other part. The clamping means may also be viewed as having the foot

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and the middle member as one part and the clamping member as the other part. It is recognized that the parts may not be formed as single integral members in the fashion shown in Figures 1-3 of the present application, however there is no requirement in the claims that each of the two parts be formed in that fashion and therefore each "part" may be viewed as being formed of multiple pieces. Furthermore, even if the claims included such a recitation is not likely to result in patentability because of the obviousness of making parts integral and separable (see MPEP 2144). The middle piece and the foot piece are mounted displaceably in the bearing bracket so that a spring interacting with the bottom second surface of the bearing bracket and with the foot biases the clamping member against the top first surface of the bearing bracket. Thus the German document shows all the structure required by claims 1-6, 10-11.

In regard to claims 12-14, it should be noted that the German document also shows a means for opening and closing the tensioning element that is formed by two ramps formed on the member g. The ramp leading up to an apex from the right side of the ramp (as shown in the figure) forms a first ramp that opens the clamping member and the second ramp formed by the remainder of the member g closes the clamping member. The two ramps are arranged at an angle of less than 180° to each other and each has a different gradient. Thus, the German document shows all the structure required by claims 12-14.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.



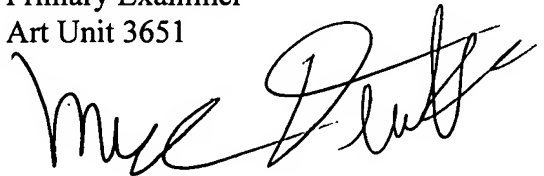
The cited art not discussed above show various clamping arrangements mounted on conveyors. Particular attention should be paid to Head and Kors et al. which both teach that ramps may be used to actuate a clamping element on a conveyor.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark A. Deuble  
Primary Examiner  
Art Unit 3651



md